

REPORTER'S RECORD

VOLUME 8 OF 9 VOLUMES

TRIAL COURT CAUSE NO. 1364839

COURT OF APPEALS NO. 14-14-00142-CR

ROGELIO AVILES-BARROSO)	IN THE DISTRICT COURT
)	
Appellant)	
)	
)	
VS.)	HARRIS COUNTY, TEXAS
)	
)	
THE STATE OF TEXAS)	
)	
Appellee)	337TH JUDICIAL DISTRICT

GUILT-INNOCENCE PROCEEDINGS

On the 4th day of February, 2014, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Renee Magee, Judge presiding, held in Houston, Harris County, Texas;

Proceedings reported by computer-aided transcription/stenograph shorthand.

A P P E A R A N C E S

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1 He didn't care about that. He decided he wanted to tell
2 the truth and that's all he ever wanted to do.

3 I could charge Rudy tomorrow. I could
4 charge him tomorrow. There's no statute of limitations
5 on capital murder. And there is nothing to stop me.
6 Yet, he came here and told you what he told you with no
7 deal. No assurances, no promises, nothing. And how did
8 that benefit him? Well, you have to think about the
9 timing of all this. He's sitting up in prison in
10 Pennsylvania doing his federal time. And absolutely, it
11 was almost over. He is going to get out.

12 So, what does he decide to do? For the
13 first time in years when the police come calling: Rudy,
14 tell us what you know about the murder of this little
15 boy. I am almost done with my federal time, but I think
16 I will go ahead and put myself right in the big middle
17 of this capital murder case. Never done it before, but
18 today I will. I'm just going to tell them: I am right
19 in the middle of this capital murder case. Don't have a
20 lawyer. Don't ask for any advice. Don't know anything
21 about the law of parties. Don't know whether I am
22 injecting myself and could become criminally responsible
23 for all the things that I say. I'm going to put myself
24 right in the big middle of it less than a year before I
25 am due to get out of prison.

1 How does that benefit Rudy? It doesn't.
2 And guess what? It didn't. Because he's still sitting
3 there in that orange jumpsuit in custody when he could
4 be home in the Dominican with his family. He could have
5 gotten on that witness stand after he got an attorney
6 here in Houston and his attorney goes: Hey, Rudy,
7 there's some things you ought to know. There is this
8 thing called the law of parties. And you've already
9 given your statement and you've already put yourself in
10 the middle of this case, and you can't change that, but
11 what you can do is get on the witness stand and say: I
12 invoke my Fifth Amendment right not to testify. I'm not
13 going to get on the witness stand and swear under oath
14 that I was part of a criminal offense. Could have told
15 him that and he could have not said a word from that
16 witness stand, and there wouldn't have been a damn thing
17 I could do about it. But he didn't do that. Even after
18 advised by his lawyer of his rights, he did not do that.

19 I cannot tell you how exceptionally rare
20 what Rudy did is.

21 MR. BROWN: Objection. That's outside the
22 spectrum of the case.

23 THE COURT: That's sustained.

24 MS. TISE: You didn't have to like him.
25 You don't have to agree with the decisions that he